IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION No: 7284 of 2004

Between:

Mallavarapu Aggidevudu S/o. Ramanna
R/o. Ryali (V) Atreyapuram Mandal East Godavari District

..... PETITIONER

AND

1 The Commissioner of Endowments Government of A.P. Hyderabad.
2 The Assistant Commissioner of Endowments Rajahmundry, East Godavari District.
3 Sri Umakamandaleswara Swami Temple Ryali (v) Atreyapuram Mandal, E.G. District rep. by its
Executive Officer.
4 Revenue Divisional Officer Amalapuram E.G. District
5 Mandal Revenue Officer Atreyapuram, E.G District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the proposed action of the respondents in trying to evict the petitioner from his lawful possession and enjoyment of the land an extent of Ac.1-07 cents in R.S. No.68/2 belonging to 3rd Respondent devasthanam situated at Ryali Village, Atreyapuram mandal, E.G District as illegal, arbitrary, violative of Principles of natural justice and Art.19 (1)(g) and 21 of the Constitution of India and for a consequential order directing the respondents not to evict the petitioner herein from his possession and enjoyment of the above mentioned lands.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following:

ORAL ORDER:

-

The petitioner claiming to be a tenant of the lands belonging to the 3rd respondent-Devasthanam in an extent of Ac.1.07 cents in Sy.No 68/2 of Ryali Village, Atreyapuram Mandal, East Godavari District, has filed the writ petition apprehending that the respondents would evict him from what he calls his lawful possession and enjoyment of the lands without following the due process of law.

It appears that the Devasthanam filed A.T.C 3/96 for eviction of the petitioner before the Principal District Munsif-cum-Special Officer, Kothapet, against the petitioner and his mother-in-law. The Tenancy Tribunal, ordered eviction which was confirmed by the Appellate Authority in A.T.A 96/97. Aggrieved thereby, the petitioner preferred C.R.P.NO.2636/2001. This revision was allowed by this Court in view of the fact that the provisions under the Tenancy Act are inapplicable in respect of temple lands in view of the judgment of the Supreme Court reported in ***STATE OF A.P v. NALLAMILLI RAMI REDDI***. After the judgment of the Supreme Court referred to supra, the State Government issued Rules in G.O.Ms.No.379, dated 11-03-2003 establishing provisions to enable the Endowment Institutions to evict tenants. A notice under the said rules was issued cancelling the petitioner's lease. According to the petitioner, there was no prior determination of the issue as to whether he was a small farmer and therefore entitled to the benefits of Section 82(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. On receipt of a notice from the 3rd respondent-temple dated 30-04-2003, petitioner filed a writ petition along with some others. This writ petition was disposed of by this Court on 13-05-2003, directing the respondents to conduct enquiry as to whether the petitioner is a small farmer and directed that the petitioner should be continued in possession till the conclusion of such enquiry. The enquiry into the petitioner's status on the aspect as to whether he is a small farmer is not yet concluded.

At this stage, it has come to the petitioner's notice in a news report, that the Revenue authorities had acquired the 3rd respondent-temple lands in an extent of Ac.20.00 for providing house sites. Apprehending dispossession, on the basis of such a news report, this writ petition is filed.

The 4th respondent has filed a counter affidavit on his own behalf and on behalf of the 5th respondent. In para 4 of the counter affidavit, the answering respondent categorically asserts that there are no land acquisition proposals to acquire the lands of the 3rd respondent-temple for provision of house sites. It is stated that an extent of land admeasuring Ac.20.00 in Sy.No.9/2B had already been acquired for provision of house sites and there is no necessity to acquire the petitioner's lands for the purpose. The counter affidavit asserts that the petitioner has approached this Court on a mere apprehension.

In the light of the clear averments in the counter affidavit the apprehension of the petitioner is seen to be misconceived. There are no merits in the writ petition. The writ petition is accordingly dismissed. Needless to mention that if the respondents seek to evict the petitioner, the respondents can do so only in accordance with the due process of law.

_____

17-12-2004

vs

To

1 The Commissioner of Endowments Government of A.P. Hyderabad.
2 The Assistant Commissioner of Endowments Rajahmundry, East Godavari District.
3 The Executive Officer, Sri Umakamandaleswara Swami Temple, Ryali (v) Atreyapuram Mandal, E.G. District.
4 The Revenue Divisional Officer Amalapuram E.G. District.
5 The Mandal Revenue Officer Atreyapuram, E.G District.

6 2 CCs to the G.P. for Endowments, High Court of A.P., Hyderabad (OUT).

7 2 CD copies.